

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

CIVIL COVER SHEET

This form is REQUIRED for the use of the Clerk of Court for the purpose of initiating the civil docket sheet.

IN RE: Bankruptcy Case No. 15-45649-ess Adv. Pro. No. (if applicable) _____

Bankruptcy Appeal

APPELLANTS

Malke Bernstein

APPELLEES

Marianne De Rose, Trustee

ATTORNEYS (FIRM NAME, ADDRESS, TEL. NO.)

Malke Bernstein pro se
5118 14th Ave # 2A
Brooklyn N.Y. 11219

ATTORNEYS (IF KNOWN)

BASIS OF JURISDICTION: Federal Question

CAUSE OF ACTION - 28:1334 Bankruptcy Appeal (Write brief statement of cause.)

Dismissal of Chapter 13 bankruptcy case entered October 13, 2017

NATURE OF SUIT: 422 Bankruptcy Appeal (801)

RELATED CASE(S) IN DISTRICT COURT, IF ANY

None

DISTRICT JUDGE _____

DOCKET NUMBER _____

CIVIL CASES ARE DEEMED RELATED IF PENDING CASE INVOLVED:

- ☐ 1. PROPERTY INCLUDED IN AN EARLIER NUMBERED PENDING SUIT
☐ 2. SAME ISSUE OF FACT OR GROWS OUT OF THE SAME TRANSACTION
☐ 3. VALIDITY OR INFRINGEMENT OF THE SAME PATENT COPYRIGHT OR TRADEMARK

Date: 11/14/2017

Signature of Attorney of Record: M. Bernstein
[or Appellant Pro Se]

FOR COURT USE ONLY

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

RECEIVED RECEIVED

2017 NOV 15 A 10:30 2017 NOV 15 A 10:5

CLERK U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK
CLERK U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

CIVIL COVER SHEET, Bankruptcy Appeal (cont'd)

Did the cause of action arise in Nassau or Suffolk County? No

If YES, please indicate which county: Kings

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

YES ☐ N.A. NO ☐

Are you currently the subject of any disciplinary action(s) in this or any other state or federal court?

YES ☐ (If yes, please explain) NO ☒

Please provide your bar code and e-mail address below. Your bar code consists of the initials of your first and last name and the last four digits of your social security number, or any other four-digit number registered by the attorney with the Clerk of Court. This information must be provided pursuant to local rule 11.1(b) of the local civil rules.

Attorney Bar Code: _____

E-Mail Address: _____

Official Form 417A (12/15)

[Caption as in Form 416A, 416B, or 416D, as appropriate]

NOTICE OF APPEAL AND STATEMENT OF ELECTION

Part 1: Identify the appellant(s)

1. Name(s) of appellant(s): Melissa Bernstein
2. Position of appellant(s) in the adversary proceeding or bankruptcy case that is the subject of this appeal:

For appeals in an adversary proceeding.

- ☐ Plaintiff
☐ Defendant
☐ Other (describe) _____

For appeals in a bankruptcy case and not in an adversary proceeding.

- ☒ Debtor
☐ Creditor
☐ Trustee
☐ Other (describe) _____

Part 2: Identify the subject of this appeal

1. Describe the judgment, order, or decree appealed from: Dismissal of Chapter 13
2. State the date on which the judgment, order, or decree was entered: October 31, 2017

Part 3: Identify the other parties to the appeal

List the names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their attorneys (attach additional pages if necessary):

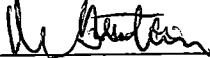
1. Party: Fitch Attorney: Douglas P. Dick
Fitchell Bernstein 369 Lexington Ave, 12th floor
New York, NY 10017
2. Party: Jacob Bernstein Attorney: Douglas P. Dick
369 Lexington Ave, 12th floor
N.Y. NY 10017
3. Marianne De Rosa, Trustee
125 Ipswich TPKE Suite 105
516 622 1340

Part 4: Optional election to have appeal heard by District Court (applicable only in certain districts)

If a Bankruptcy Appellate Panel is available in this judicial district, the Bankruptcy Appellate Panel will hear this appeal unless, pursuant to 28 U.S.C. § 158(c)(1), a party elects to have the appeal heard by the United States District Court. If an appellant filing this notice wishes to have the appeal heard by the United States District Court, check below. Do not check the box if the appellant wishes the Bankruptcy Appellate Panel to hear the appeal.

☒ Appellant(s) elect to have the appeal heard by the United States District Court rather than by the Bankruptcy Appellate Panel.

Part 5: Sign below


Signature of attorney for appellant(s) (or appellant(s) if not represented by an attorney)

Date: November 14, 2017

Name, address, and telephone number of attorney
(or appellant(s) if not represented by an attorney):

Mark A. Nesbitt
5118 W. 1st Ave. #24
Omaha, NE 68131

Fee waiver notice: If appellant is a child support creditor or its representative and appellant has filed the form specified in § 304(g) of the Bankruptcy Reform Act of 1994, no fee is required.

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X
In re

Chapter 13
Case No. 15-45649-ess

MALKA BERNSTEIN,

Debtor.
-----X

ORDER DISMISSING CASE

WHEREAS, on December 18, 2015, Malka Bernstein filed a petition for relief under Chapter 13 of the Bankruptcy Code; and

WHEREAS, on December 18, 2015, Marianne DeRosa was appointed as Chapter 13 Trustee in this case; and

WHEREAS, on March 2, 2017, the Trustee filed a motion to dismiss the Debtor's case (the "Motion to Dismiss"); and

WHEREAS, on May 15, 2017, the Court held a hearing at which it granted the Motion to Dismiss, and directed the Trustee to settle a proposed order dismissing this case; and

WHEREAS, on June 29, 2017, the Trustee filed an amended proposed order; and

WHEREAS, on July 27, 2017, the Debtor filed opposition to the entry of the proposed order (the "Opposition"); and

WHEREAS, the Court scheduled a hearing on the Motion to Dismiss and the Opposition for September 18, 2017; and

WHEREAS, on September 18, 2017, the Debtor requested an adjournment of the hearing on the Motion to Dismiss and the Opposition for personal medical reasons; and

WHEREAS, on September 18, 2017, the Court held a hearing on the Motion to Dismiss and the Opposition at which the Trustee appeared and was heard, and the Debtor did not appear; and

WHEREAS, on October 23, 2017, the Court held a continued hearing on the Motion to Dismiss and the Opposition at which the Debtor and the Trustee appeared and were heard, and the Court marked the matter submitted, and reserved decision; and

WHEREAS, on October 27, 2017, the Debtor filed an affirmation in further opposition to the Trustee's Motion to Dismiss stating, among other things, that she did not provide the Trustee with certain documents required under E.D.N.Y. LBR 2003-1(a)(vi) and 2003-1(b)(i) because she is not responsible for making mortgage payments, that she already provided certain documents required under E.D.N.Y. LBR 2003-1(a)(ii) and E.D.N.Y. LBR 2003-1(c), and that the Trustee made erroneous arguments at the October 23, 2017 hearing; and

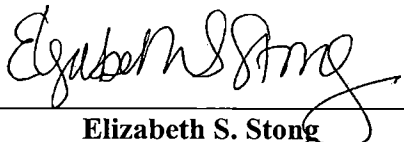
WHEREAS, the Debtor has not complied with the disclosure requirements of E.D.N.Y. LBR 2003-1.

NOW THEREFORE, it is hereby

ORDERED, that based on the entire record, this case is dismissed pursuant to Bankruptcy Code Section 1307(c).

Dated: Brooklyn, New York
October 30, 2017




Elizabeth S. Stong
United States Bankruptcy Judge

Sorry, I was waiting outside
for some time because the doors
were locked, until an officer
came and opened it, I was
just a few minutes past 12
